

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

FAO.No. 58 of 2007()

AGAINST THE ORDER DATED 02/01/2007 IN IA.4321/06 IN
OS.319/2006 of III ADDL.SUB COURT, KOZHIKODE
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APPELLANT/PETITIONERS/PLAINTIFF.

MANNINGATHODI BEERANKUTTY,
S/O. ISMILKUTTY, AGED 45 YEARS, RESIDING AT
KODIYATHUR AMSOM AND PANNIKKOD DESOM,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.P.T.MOHANKUMAR
SRI.A.AHZAR

RESPONDENTS/RESPONDENTS/DEFENDANTS.

1. THAMPURANPADIKKAL DILEEPAN,
S/O. KRISHNAN, AGED 55 YEARS, RESIDING AT
VALAYANAD AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT.
2. K.RAKESH RAYICHOORA,
S/O. KANCHI VALLABHADAS, AGED 43 YEARS,
RESIDING AT DOOR NO.29/998, KOTTULI AMSOM AND
PARAYANCHERI DESOM, KOZHIKODE TALUK KOZHIKODE
DISTRICT.
3. K.YOGESH, AGED 46 YEARS,
S/O. KANCHI VALLABHADAS, RESIDING AT DOOR
NO.29/998, KOTTULI AMSOM AND PARAYANCHERI DESOM,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.
4. MADAKKUNI ARAVINDAKSHAN, S/O. APPU,
AGED 55 YEARS, RESIDING AT KAITHAKKODI PARAMBA,
KOTTULI AMSOM AND PARAYANCHERI DESOM,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.

5. MADAKKUNI PRAKASHAN, S/O. APPU,
AGED 52 YEARS, RESIDING AT KAITHAKKODI PARAMBA,
KOTTULI AMSOM AND PARAYANCHERI DESOM,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.
6. MADAKKUNI DINESHAN, S/O. APPU, AGED 48,
RESIDING AT KAITHAKKODI PARAMBA, KOTTULI AMSOM
AND PARAYANCHERI DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT.
7. MADAKKUNI PRASANTH KUMAR, S/O. APPU,
AGED 32 YEARS, RESIDING AT KATHAKKODI PARAMBA,
KOTTULI AMSOM AND PARAYANCHERI DESOM,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.
8. G.SENTHI KUMAR, S/O. GOPALAKRISHNA NADAR
AGED 60 YEARS, RESIDING AT DOOR NO. 11/368,
NAGARAM AMSOM AND DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT.
9. G.ASHOK KUMAR, S/O. GOPALAKRISHNA NADAR,
AGED 44 YEARS, RESIDING AT DOOR NO. 11/368,
NAGARAM AMSOM AND DESOM, KOZHIKODE TALUK,
KOZHIKODE DISTRICT.

BY ADV. SALIL NARAYANAN (CAVEATOR)

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD
ON 04/04/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN,JJ.

F.A.O.No.58 of 2007

Dated this the 4th day of April, 2007

JUDGMENT

Sankaran,J.

The plaintiff in O.S.No.319/2006 on the file of the Sub Court, Kozhikode, whose application for temporary injunction was dismissed, is the appellant. The suit is one for specific performance of an agreement for sale. The suit is contested by the respondents. The appellant prayed for an injunction restraining the respondents from alienating the plaint schedule property till the disposal of the suit. The court below, after elaborately considering the facts and circumstances of the case, vacated the interim injunction originally granted.

2. Learned counsel for the respondents submitted that the respondents-defendants do not intend to alienate the plaint schedule property till the disposal of the suit. In view of this undertaking it is not necessary to consider the appeal on the merits. It is sufficient if the undertaking is recorded and the trial court is directed to dispose of the suit expeditiously.

3. Accordingly the F.A.O is disposed of. The undertaking of the respondents that they will not alienate the plaint schedule property is recorded. The trial court shall dispose of the suit as expeditiously as possible untrammelled by any of the observations contained in the order impugned.

(KURIAN JOSEPH, JUDGE)

(K.T.SANKARAN, JUDGE)

ahg.